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CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LARONNE ANTHONY HAYES,

Petitioner,

v.

ROBERT WONG, Warden,

Respondent.

CASE NO. 07-CV-0133 W (AJB)

ORDER ADOPTING REPORT
AND RECOMMENDATION
AND DENYING PETITION FOR
A WRIT OF HABEAS CORPUS

On January 22, 2007, Petitioner Laronne Anthony Hayes, a state prisoner proceeding pro se, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges his conviction on the ground that the trial court refused to allow him to present evidence in support of his defense.

On March 26, 2007, Respondent filed an answer, and on April 16, 2007, Petitioner filed a traverse. On December 21, 2007, the Honorable Anthony J. Battaglia, United States Magistrate Judge, issued a Report and Recommendation ("Report"). The Report recommends that the Court deny habeas petition. The Report also ordered that any objections were to be filed by January 10, 2008, and any reply filed January 24, 2008.

On January 7, 2008, Petitioner filed a motion for an extension of time to file an objection to the Report. On January 9, 2007, the Court granted Petitioner's motion, and ordered any objections to the Report were due February 11, 2008, and any reply due


1 February 25, 2008. [Doc. No. 11.] To date, no objection has been filed, nor has there
2 been any other requests for additional time in which to file an objection.

3 A district court's duties concerning a magistrate judge's report and recommendation
4 and a respondent's objections thereto are set forth in Rule 72(b) of the Federal Rules of
5 Civil Procedure and 28 U.S.C. § 636(b)(1). When no objections are filed, the district court
6 is not required to review the magistrate judge's report and recommendation. See United
7 States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003)(holding that 28 U.S.C.
8 636(b)(1)(c) "makes it clear that the district judge must review the magistrate judge's
9 findings and recommendations de novo *if objection is made*, but not otherwise")(emphasis in
10 original); Schmidt v. Johnstone, 263 F. Supp. 2d 1219, 1226 (D. Arizona 2003) (concluding
11 that where no objections were filed, the District Court had no obligation to review the
12 magistrate judge's Report). This rule of law is well established within the Ninth Circuit and
13 this district. See Wang v. Masaitis, 416 F.3d 992, 1000 n. 13 (9th Cir. 2005)("Of course,
14 de novo review of a R & R is *only* required when an objection is made to the R &
15 R.")(emphasis added)(citing Reyna-Tapia, 328 F.3d 1121); Nelson v. Giurbino, 395 F.
16 Supp. 2d 946, 949 (S.D. Cal. 2005) (Lorenz, J.) (adopted Report without review because
17 neither party filed objections to the Report despite the opportunity to do so, "accordingly,
18 the Court will adopt the Report and Recommendation in its entirety."); see also Nichols
19 v. Logan, 355 F. Supp. 2d 1155, 1157 (S.D. Cal. 2004) (Benitez, J.).

20 The Court therefore accepts Judge Battaglia's recommendation, and **ADOPTS** the
21 Report in its entirety. For the reasons stated in the Report, which is incorporated herein
22 by reference, the Court **DENIES** the Petition for Writ of Habeas Corpus. The clerk of
23 the court shall close the District Court file.

24 **IT IS SO ORDERED.**

25 **DATE: February 26, 2008**

26 
27 **HON. THOMAS J. WHELAN**
28 United States District Court
Southern District of California